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**From:**

**Sent:** Wednesday, May 27, 2009 11:23:27 AM

**To:**

**Cc:**

**Subject:** RE: TEFRA audit reconsideration

Taxpayers have 2 years from the date the Form 870-LT was signed to file a refund claim. I.R.C. 6230(c)(2)(B)(i). The refund claim would be based on the fact that the Form 870-LT determined the amount of partnership income with finality and that the computational adjustment/assessment failed to back out the double reporting of that same income reported as Schedule C income. Backing out the Schedule C income would not be inconsistent with the Form 870-LT if the Schedule C truly duplicated the determined partnership income. The fact that taxpayers failed to raise this issue does not invalidate the Form 870-LT since the failure does not constitute fraud, malfeasance or misrepresentation of fact within the meaning of section 6224(c).

